



UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/465,600	12/17/1999	ALEX I. EYDELBERG	INTL-0304-US	9073

7590 07/15/2005

TIMOTHY N TROP
TROP PRUNER HU & MILES PC
8554 KATY FREEWAY
STE 100
HOUSTON, TX 77024

EXAMINER

HA, LEYNNA A

ART UNIT	PAPER NUMBER
----------	--------------

2135

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/465,600

Applicant(s)

EYDELBERG, ALEX I.

Examiner

LEYNNA T. HA

Art Unit

2135

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 21-56.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s): _____.

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Claims 31-56 remains rejected under 35 U.S.C. 103(a) as being unpatentable by Rakavy, Et. Al. (US 6,324,644) in view of Anderson (US 6,161,177) and in further view of Godse (US 6,202,091). Applicant have cancelled the originally filed claims 1-30 and added new claims 31-56. Therefore the last office action was made final.

The Rakavy, Anderson, and Godse combination teaches the claimed limitations of claims 31-56.

As for claims 31, 40, and 51: Rakavy teach having more than one BIOS with the ability to detect and load the network BIOS [see col.6, lines 35-60]. However, Rakavy fails to discuss loading either a first module of the basic input/output system or a second module of the basic input/output system based on a system state.

Anderson teaches a computer system that includes a memory device containing a BIOS program and determining if the correct BIOS has been selected for execution by the CPU (col.4, lines 41-43 and col.5, lines 22-30). Thus, Anderson has the ability to load different BIOS modules by having the ability to determine the correct BIOS being selected for execution.

Therefore, it would have been obvious of the ordinary skill in the art to combine the teachings of Rakavy with Anderson of being able to selectively load the first or second BIOS is to ensure that the proper BIOS program is executed in computer systems having more than one BIOS program retained in a storage device and this will add optimum performance (col.2, lines 45-63).

However, the Rakavy/Anderson combination fails to include selectively load the bios based on the system state indicating a connection to the network.

Godse teach a pointer that can be selectively set to point toward a local site or a remote site that allows initiating the boot-up procedure locally while loading some software component such as a network wherein indicates the system state having a connection to the network (col.2, lines 40-49 and col.4, lines 30-53). It would have been obvious of the ordinary skill in the art to combine the teachings of the Rakavy/Anderson combination with Godse of being able to selectively load the BIOS based on the system state indicating a connection to a network because this avoids the necessity of changing the boot-up program at each node of the network (col.2, lines 49-50).]

The claimed limitations are properly rejected with the Rakavy, Anderson, and Godse combination.



KIM VU
SUPERVISORY PATER MINER
TECHNOLOGY CENTER 2100